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No. 154.

3rd Session, 6th Parliament, 23 Victoria, 1860.

B I L L .

**An Act concerning the Administration
of Justice in Lower Canada.**

Received and read first time, Tuesday, 3rd
April, 1860.

Second reading, Tuesday, 10th April, 1860.

Hon. Mr. Atty. Genl. CARTIER.

S. Derbishire & G. Desbarats, Queen's Printer.

An Act concerning the administration of Justice in Lower Canada.

WHEREAS it has become necessary to make further provision for the administration of justice in Lower Canada: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, 5 enacts as follows:

Preamble.

1. So much of the provisions of the one hundred and eleventh section of *The Lower Canada Judicature Act of 1857*, as relates to the title to the Court House and Gaol in and for each of the New Districts respectively, and the one hundred and 10 twelfth section thereof shall, notwithstanding any law to the contrary, be extended and shall apply to all the Districts of Lower Canada, so that hereafter the title to the District Court House and Gaol at or near the *chef-lieu* in and for each and every District of Lower Canada and to the Court House and 15 Gaol at each of the *chefs-lieux* in the District of Gaspé, to wit: in the Counties of Gaspé and Bonaventure, so long as separate judicial officers shall exist in each of those Counties, shall be vested in the Sheriff of such District or County, as the case may be, for the time being, and his successors in office for ever, 20 and he and each of his successors in office shall be a Corporation sole for the purpose of holding the same, but without power to alienate, charge or incumber the same; and it shall be the duty of every Sheriff to keep the Court House and Gaol therein insured against loss by fire, for an amount and by an Insurance Company to be approved by the Commissioner of Public 25 Works, and in case of loss by fire the Sheriff may recover under the policy, and the amount recovered shall be applied to repair or re-construct the building destroyed or damaged.
2. All the provisions of the one hundred and thirteenth 30 section of *The Lower Canada Judicature Act of 1857* shall be extended and shall apply to the Districts of Quebec, Montreal, Three-Rivers, Gaspé, St. Francis, Kamouraska and Ottawa, so that, for the keeping in good repair the District Court Houses and Gaols in those Districts, and for paying the Petit Jurors in criminal cases in the same, there shall be, in and for 35 each such District, a Fund, to be called "The Building and Jury Fund for the District of" " (as the case may be,) which shall consist of the several items mentioned in the said section; provided, however, that each of the local municipalities or corporations of the Cities of Quebec, Montreal 40 and Three-Rivers, and the Town of Sherbrooke, shall contribute yearly to that fund the following amounts, that is to say:

Section 111 of 20 V. c. 44, extended, and the title to the District Court House and Gaol in any District of L. C. vested in the Sheriff thereof.

His powers and duties.

Section 113 of 20 V. c. 44, extended to the Old Districts, and fund created for keeping the Court Houses and Gaols therein in repair in each.

Contributions to such fund.

By Cities of
Quebec and
Montreal.

The local Municipalities or corporations of the Cities of Quebec and Montreal shall each contribute double the aggregate amount to be contributed under the seventh paragraph of the above one hundred and thirteenth section, by the several local municipalities within the Districts of Quebec and 5 Montreal, respectively ;

By Three-
Rivers and
Sherbrooke.

The Local Municipalities or corporations of the City of Three-Rivers and the Town of Sherbrooke shall each contribute a sum equal to *one fifth* of the aggregate amount to be contributed under the seventh paragraph of the above one 10 hundred and thirteenth section, by the several local municipalities, within the Districts of Three-Rivers and St. Francis respectively.

Counties of
Gaspé and
Bonaventure
to have each a
separate fund.

3. Each of the Counties of Gaspé and Bonaventure shall, for the above purposes, be deemed a separate and distinct 15 District, and "The Building and Jury Fund for the District of Gaspé" shall be called "The Building and Jury Fund for the County of Gaspé" (or "Bonaventure" as the case may be,) so long as separate judicial officers shall exist in each of those Counties. 20

Sections 114
and 115 of 20
V. c. 41, to
apply to the
Old Districts
and to the said
Counties: pro-
portion of con-
tribution by
the said Cities
and Towns.

4. The one hundred and fourteenth and one hundred and fifteenth sections of the above Act shall apply to the above named Districts, and with regard to the District of Gaspé, to each of the Counties of Gaspé and Bonaventure, so long as separate judicial officers shall exist in each of those Counties ; 25 but the contribution from each of the Local Municipalities or Corporations of the Cities of Quebec, Montreal, and Three-Rivers, and Town of Sherbrooke, under the one hundred and fifteenth section, shall be in the same proportion as the yearly contribution of the same to "The Building and Jury Fund," 30 as explained above.

Section 116 of
20 V. c. 44,
extended.

5. The power given by the one hundred and sixteenth section of the above Act shall apply to the Local Municipalities in the above named Districts, and in the Counties of Gaspé and Bonaventure. 35

Certain fines
payable under
sect. 35 of cap.
105, and sect.
14 of cap. 106
of Con. Stat.
of Canada to
form part of
the said fund.

6. All fines now payable to the Prothonotary under the provisions of the thirty-fifth section of the one hundred and fifth chapter, and the fourteenth section of the one hundred and sixth chapter of the "Consolidated Statutes of Canada," shall be hereafter paid to the sheriff and shall together with any sums 40 in the hands of the Prothonotary collected under the authority of either of those sections, or under any Act or Acts consolidated under those Chapters, form part of "The Building and Jury Fund," for the District, or for the County of Gaspé, or Bonaventure, as the case may be, so long as separate judicial 45 officers shall exist in each of those Counties ; and the jurisdiction and powers conferred upon and vested in the Sheriff of

Powers vested
in certain
Sheriffs.

any District in Lower Canada, (other than the Districts of Quebec and Montreal,) are hereby conferred upon and vested in any Sheriff in the District of Gaspé, in and for the Counties of Gaspé or Bonaventure, as the case may be, so long as separate judicial officers shall exist in each of those Counties, and upon and in the Deputy of any such Sheriff.

7. The sixth section of *An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in Lower Canada*, (12 Vict. cap. 112), shall be extended and shall apply to all the Districts of Lower Canada, and all the moneys arising from the sources therein mentioned shall be paid over to the Sheriff, to form part of "The Building and Jury Fund,"—and out of that fund payment shall be made of the price or value of the ground on which any Gaol or Court House at or near the *chef-lieu* in any District is erected, which may yet remain unpaid for.

Section 6 of 12 V. c. 112, extended to all Districts in L. C.

8. On, from and after the first day of January next, the fixed salaries allowed to certain officers of justice by "An Act to assign fixed annual salaries to certain officers of Justice in Lower Canada, and to form a special fund out of the salaries, Fees, Emoluments and Pecuniary Profits attached to their offices," (13 & 14 Vict., cap. 37) as amended by "An Act to amend the acts assigning fixed annual salaries in lieu of Fees, to certain officers of justice in Lower Canada," (16 vict., cap. 196) and by "An Act to provide temporarily for the payment of Petty Jurors in Lower Canada, and to make better provisions for the payment of certain judicial officers in that part of the Province," (18 vict. cap. 98) shall be discontinued, except with respect to those officers at the *chefs-lieux* of the Districts of Quebec and Montreal; and thenceforth the ninety-sixth section of "The Lower Canada Judicature Act of 1857," shall be extended and shall apply to the officers of Justice at the "chef-lieu" in the above named Districts, except those of Quebec and Montreal, and to the officers of Justice at the "chefs-lieux" of the District of Gaspé, that is, to those of the Counties of Gaspé and Bonaventure, as the case may be, so long as separate judicial officers shall exist in each of those Counties, and the fund in each of the said Counties at the "chefs-lieux" shall be called "The County of Gaspé," (or Bonaventure, as the case may be,) "Officers of Justice Fee Fund;" but the above shall not affect the present incumbents of the offices mentioned in the above Acts, who, so long as they enjoy such offices, shall continue to receive the salary assigned or to be assigned to them under the above Acts, and shall pay over and account for the fees received by them in the manner thereby prescribed; and any surplus of the fees collected by the Sheriff of the District of Quebec or Montreal, by the Prothonotary of the Superior Court in either of those Districts, or by the Clerk of the Circuit Court for either of them, remaining after the payment of the salaries of the officers and the contingencies of

Salaries payable under 13, 14 V. c. 37,—16 V. c. 196, and 18 V. c. 98, discontinued, except in Districts of Quebec and Montreal.

And sect. 96 of 20 V. c. 44, to apply in all other Districts.

Exception in favour of present incumbents.

Surplus of certain fees in Quebec and Montreal to form part of Building and Jury Fund.

those offices, shall, at the close of every year, be paid over to the Sheriff, to form part of "The Building and Jury Fund" of the District; and this provision shall apply also to the fees collected by the Clerk of the Crown and the Clerk of the Peace in those two Districts, if there be any excess of income over the expenditure of their respective offices. 5

Governor in Council may exempt certain Officers from paying over fees, or order a portion only to be paid over.

9. Notwithstanding the provisions of the said ninety-sixth section of the Lower Canada Judicature Act of 1857, the officers therein mentioned, may, by order of the Governor in Council, be exempted from paying over to the Receiver General the fees collected by them, on accounting to him for the same, but they shall pay over to the Receiver General such portion of those fees as shall, by the order of the Governor in Council, be from time to time directed to be paid to meet any contingencies, or any portion of them that may by any such order be directed to be reserved to form part of "The Building and Jury Fund," in any District. 15

Governor in Council may fix amount to be paid to Clerks of the Crown and Peace in lieu of fees.

10. The Governor in Council may, from time to time, fix the amount that shall be paid to the Clerks of the Crown and Clerks of the Peace in all the Districts of Lower Canada, (except those of Quebec and Montreal, to whom the present enactments respecting their remuneration shall continue to apply,) for services performed by them, and for and in lieu of fees payable to them by the Crown, and any amount so ordered shall be paid accordingly. 25

Governor in Council to fix the site of any Court House or Gaol to be built or rebuilt.

11. Whenever it shall become necessary to build or rebuild any Court House or Gaol in any District of Lower Canada, such Court House or Gaol may be erected at or near the *chef-lieu* of the District, at such place as the Governor in Council shall direct, and so soon as it shall be ready, it shall be used for all the purposes of the administration of justice. 30

Sheriff may provide temporary accommodation, in case of such re-building.

12. In any case in which it shall become necessary to rebuild a Court House or Gaol, the sheriff in any District may, during its reconstruction, procure temporarily at or near the *chef-lieu* at a place to be approved by the Governor in Council, a building suitable for a Court House or Gaol, or both, as the case may be, which shall be used, for the purposes of the administration of Justice in Civil and Criminal matters, in the same manner and with as legal effect as a permanent Gaol and Court House. 40

Sections 100 to 104 of 20 V. c. 44, to apply to Gaspé.

13. All the provisions of the one hundredth, the one hundred and first, the one hundred and second, the one hundred and third and the one hundred and fourth sections of *The Lower Canada Judicature Act of 1857*, shall be extended and shall apply to the District of Gaspé, for the purpose of repairing and enlarging the Gaols and Court Houses at the *chefs-lieux* of that District in the Counties of Gaspé and Bonaventure. 45

14. So soon as the Council of the County of Gaspé shall have furnished at Gaspé Basin a site suitable for a Gaol and Court House, and such means as, added to the Building and Jury Fund for that County, will suffice to build a Gaol and
 5 Court House, the Governor may order the building of a Gaol and Court House thereat; and so soon as such Gaol and Court House shall be completed at Gaspé Basin, the Governor may make known the fact by proclamation, and by such proclamation may fix, for all the purposes of the administration of
 10 justice, Gaspé Basin as the "chef-lieu" instead of Percé, in the said County.

Chef-lieu of Gaspé County may be changed on certain conditions.

15. The Governor may, by Order in Council, authorize the Receiver General to raise, from time to time, and upon such terms and conditions as may be deemed proper, such sum or
 15 sums of money as may be required to meet the expense of re-building, repairing, or enlarging any Gaol or Court House in any District of Lower Canada, by the issue of Provincial Debentures, and any Debentures so issued shall be the first charge on and be paid out of the Building and Jury Fund for
 20 the District (or for the County of Gaspé or Bonaventure) as the case may be.

Funds for re-building, &c., any Gaol or Court House may be raised by Provincial Debentures: re-payment provided for.

16. If in any District in Lower Canada any Court House or Gaol is no longer required for the use of such District, the Commissioner of Public Works may cause the
 25 same and the site on which it is situate, to be sold and add the proceeds of such sale to form part of the Building and Jury Fund for the District (or for the County of Gaspé or Bonaventure, as the case may be).

Court Houses and Gaols not required may be sold.

17. All the provisions of "An Act to provide means to
 30 "recover from the Corporation of the City of Montreal, part of "the expense incurred in guarding the Common Gaol at that "place" (14 & 15 Vict. cap. 129) shall be extended and shall apply to the Corporation of the City of Quebec, in as full and ample a manner as if that Act contained the word
 35 "Quebec" wherever the word "Montreal" occurs therein; but the sum of money to be required and received from the Council of the City of Quebec, under that Act, shall not, in any one year, exceed the sum of sixteen hundred dollars.

14, 15 V. c. 129, extended to Quebec.

Proviso.

18. All the parts of *An Act to provide temporarily for the*
 40 *payment of Petty Jurors in Lower Canada, and to make better provisions for the payment of certain Judicial officers in that part of the Province* (18 Vict. cap. 98) relating to the payment of Petty Jurors, are hereby repealed.

So much of 18 V. c. 98, as provides for payment of Jurors, repealed.

19. Notwithstanding the provisions of the ninety-ninth
 45 section of *The Lower Canada Judicature Act of 1857*, it shall be lawful for the Judge holding any Court of Criminal Jurisdiction in any District, provided the building and Jury Fund

Provisions of sect. 99 of 20 V. c. 44, as to payment of

Petit Jurors,
modified.

of the District (or of the County of Gaspé or Bonaventure, as the case may be,) will admit of it, to fix from time to time an allowance to be paid to each person serving as a Petty Juror before such Court and whose usual residence is within the limits of the City or Town or of the Parish or Township in which such Court is held, but such allowance shall not exceed one half of the allowance to be paid, under that section, to Petty Jurors residing beyond such limits. 5

Word "Judge" in the said sect. 99, explained.

20. The Word " Judge " in the next preceding section and in the ninety-ninth section of *The Lower Canada Judicature Act of 1857*, shall mean any Judge of the Court of Queen's Bench, or any Judge of the Superior Court sitting in the Court of Queen's Bench ; and the allowance fixed from time to time by any such Judge, in any district, shall be the allowance to be paid to each person serving as a petit juror before any other Court having criminal jurisdiction, (if any there be) in such District. 10 15

Section 98 of 20 V. c. 44, extended to certain districts.

21. All the provisions of the ninety-eighth section of *The Lower Canada Judicature Act of 1857* shall be extended and shall apply to the Districts of Three-Rivers, Gaspé, St. Francis, Kamouraska and Ottawa, and to the Counties of Gaspé and Bonaventure, so long as there shall be a separate Sheriff in each of those Counties ; but all jury Lists now made shall continue valid,—until others be made under those provisions. 20

Proviso.

This Act not to affect 12 V. c. 112.

22. The coming into operation of this Act shall not in any way invalidate the provisions of " An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in Lower Canada," (12 V. c. 112,) but all the provisions of that Act shall remain in full force with respect to the Districts therein mentioned, and until the objects of that Act have been fully carried out. 25 30

Governor in Council may impose a tax on certain proceedings in any District to form part of Building and Jury Fund : Act 12 V. c. 112, to apply.

23. It shall be lawful for the Governor, by any order or orders in Council, to be from time to time made for such purpose, to impose such tax or duty as he shall see fit on any proceedings had in any of the Courts, in any District of Lower Canada, and upon the closing of inventories, assemblies of relations and friends, insinuations or registrations in the offices of such Courts, the appointments of Tutors or Curators, affixing or taking off of seals of safe custody, probates of wills or other like matters, also upon any proceedings at or before the Courts of Commissioners for the summary trial of small causes, and sittings of a Justice or Justices of the Peace, Inspectors and Superintendents of Police, and Sheriffs respectively, and all the provisions of " An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in Lower Canada," (12 V. c. 112.) shall apply to the imposing, levying and payment of such tax or duty, and it shall be col- 35 40 45

lected by such member of the Court or such officer or person as the Governor in Council shall appoint, and shall be paid over by him to the Sheriff to form part of the Building and Jury Fund, and every such person directed to collect such fees shall give such security as shall be fixed by Order in Council; and the Governor may, by order or orders in Council, from time to time, reserve such portion of the fees of the Clerk or Crier of the Circuit Court, held at any other place than the *chef-lieu* of a district, as he may deem proper to be appropriated for the payment of any contingencies for the maintenance of those Courts.

Provision for the maintenance of County Court Houses.

24. The sum of money to be collected in any district under the fourth section of *An Act to make provision for the erection or repair of Court Houses and Gaols at certain places in Lower Canada*, (12 Vict. cap. 112,) or under the fourth paragraph of the one hundred and thirteenth section of *The Lower Canada Judicature Act of 1857*, shall be collected only once; and the power given by the next preceding section to impose a tax or duty, shall not be exercised, with respect to the places mentioned in the 12 Vict. cap. 112, with regard to such items, proceedings or documents upon which a tax or duty is now collected at those places as imposed under the authority of the fifth section of that Act, so long as that tax or duty shall continue to be collected at those places for the purposes of that Act; and any surplus of the above tax or duty collected at any of those places, remaining after payment of the principal and interest on the debentures issued under that Act for and in respect of any such place, shall form part of "The Building and Jury Fund" of the District in which such place is situate.

Tax under sect. 4 of 12 V. c. 112, or 20 V. c. 44 collected only under one Act.

Power under sect. 23 of this Act, not to be exercised in cases where tax is payable under 12 V. c. 112.

25. If at any time the ordinary funds of the Corporation of the City of Quebec or Montreal be insufficient to meet any contribution required to be made, under the provisions of this Act, or under the 14 and 15 V. c. 129, it shall be lawful for the Council thereof to impose for that purpose a special tax or assessment, over and above the amount for which such Council is now or may be hereafter authorised by law to impose rates or assessments.

Corporation of Quebec or Montreal may impose a special rate for purposes of this Act or 14, 15 V. c. 129.

26. If at any time there shall be no Judge within the limits of a District, it shall be lawful for any person desirous of obtaining a writ of *Habeas Corpus*, to apply to any Judge qualified and authorized to grant such writ, in any adjoining District, or to any Judge at either of the Cities of Quebec or Montreal, according as cases in appeal from the District in which the applicant is confined, are under the seventeenth section of *The Lower Canada Judicature Act of 1857*, to be heard and determined at either of those Cities; and any order given on any such application by a Judge out of the District, and all proceedings out of the District, had either before or after such application or order, shall be as good and valid as if given or

When there is no Judge in any District, *Habeas Corpus* may be obtained in another District.

had within the limits of the District in which the applicant is confined.

Habeas Corpus 27. Whenever a writ of *habeas corpus* has been once refused by any one Judge, it shall not be lawful to renew the application before him or any other Judge, but application may, in any such case, be made anew to the Court of Queen's Bench, at its next sitting in appeal either in Quebec or Montreal, according as cases in appeal from the District, in which the applicant is confined, are under the seventeenth section of *The Lower Canada Judicature Act of 1857*, to be heard and determined at either of those Cities, and any order made by the Court of Queen's Bench, on any such application, and all proceedings had out of the District, either before or after such application or order, shall be as good and valid as if made or had within the limits of the District in which the applicant is confined.

Sheriff not to summon a second set of Petit Jurors in Quebec and Montreal, unless specially required. 28. Notwithstanding the provisions of the fourth paragraph of the third section of "An Act to amend the Act intituled, "An Act to regulate the summoning of Jurors in Lower Canada," (14 and 15 Vict., Cap. 89,) the Sheriff, in the Districts of Quebec and Montreal, shall, before summoning petit jurors for the Courts of criminal jurisdiction therein, enquire of the Clerk of the Crown or of the Clerk of the Peace, as the case may be, whether the number of cases and the nature thereof, to be tried before the Court of Queen's Bench or before the Court of Quarter Sessions of the Peace, appear to justify the summoning of a second set of petit jurors, and shall not summon such second set of petit jurors, until he be notified by the Clerk of the Crown or the Clerk of the Peace, as the case may be, that they are required.

First set may serve to the end of the Term. 29. If the persons summoned as petit jurors to appear on the first day of the Session of the Court of Queen's Bench, or of the Court of Quarter Sessions of the Peace, in the district of Quebec or Montreal, be required by reason of the absence of a second set of petit jurors, to serve beyond the number of days prescribed for their attendance by the fourth paragraph of the third section of the Act last above cited, they shall continue to serve as petit jurors, to all intents and purposes and with all legal effect so long as the Court shall deem their services necessary.

In other Districts Jurors not to be summoned unless the cases to be tried make it necessary. 30. In all the districts, except those of Quebec and Montreal, the Sheriff, before summoning persons to serve as grand or petit jurors before the Court of Queen's Bench, or Court of General Sessions of the Peace, or any Court of criminal jurisdiction therein, shall enquire of the Clerk of the Crown or the Clerk of the Peace, as the case may be, whether there be any cases to be investigated or tried at the next session thereof, and he shall not summon any persons to serve as grand or petit jurors before any such Court, until he be notified by the Clerk

of the Crown or the Clerk of the Peace, as the case may be, that such jurors are required; but every such Court shall nevertheless meet at the times fixed by law, and in case no grand or petit jurors shall have been summoned, and that the services of grand or petit jurors may appear to the Court to be necessary for the investigation or trial of any case that may come before such Court, the Court may direct the Sheriff to summon the usual number of persons to serve as grand or petit jurors before that Court on any day to which the Court shall be adjourned, and all proceedings had at and before such adjourned Court, shall be as valid as if they had taken place at or before such Court at the ordinary time of holding it, and any Judge or persons holding such adjourned Court shall adjourn the same from day to day, so long as there is any business before it; but the above provision shall in no way prevent the Court from proceeding, in the absence of grand or petit Jurors, for the despatch of such business as may not require the intervention of either of them.

Court to meet,
—and Jurors
to be summon-
ed if required.

31. Whenever any Court is adjourned, under the provisions of the one hundred and forty-seventh section of *The Lower Canada Judicature Act of 1857*—as amended by the sixty-sixth section of *An Act further to amend the Judicature Acts of Lower Canada*, (22 Vict., (1858,) Cap. 5,) it shall be lawful for such Court to take cognizance of, and proceed with any matters that shall be brought before it, whether the same were or were not commenced at the time of its adjournment; and any Judge or persons holding such adjourned Court shall adjourn the same from day to day, so long as there is any business before it.

Cases may be
commenced
after adjourn-
ment under
sect. 147 of 20
V. c. 44,
though not
previously
before the
Court.

32. Any report of distribution prepared and filed by the Prothonotary of the Superior Court, or by the Clerk of the Circuit Court, or any part thereof, which has not been contested within the delay fixed by any rule of practice, may be homologated by the Prothonotary or Clerk of the Court, in which the case to which such report relates is pending, in the same manner as such report or part of report can now be homologated by such Court, and every judgment of homologation by a Prothonotary or Clerk shall be held to be the judgment of the Court, homologating such report, and shall be recorded as a judgment and executed accordingly.

Uncontested
reports of dis-
tribution may
be homolog-
ated by the
Prothonotary
or Clerk after
the delay has
expired.

33. The term "Local Municipality" used in this Act and in the seventh paragraph of the one hundred and thirteenth section of *The Lower Canada Judicature Act of 1857*, shall include the Corporation of any Incorporated City or Town of Lower Canada.

Interpretation
of term
"Local Muni-
cipality."

34. In any case in which the Notarial Minutes, Repertories and Indexes and other Notarial documents and papers of any Notary, have been transmitted by the Board of Notaries in

Notarial mi-
nutes to be
transmitted.

by the Prothonotary having custody thereof to the Prothonotary of the district where the Notary died, or ceased to practice.

whose custody they were, to the Prothonotary of the Superior Court in a District not including the place where such Notary died or resided when he ceased to practise, or practised next before he left the Province or became incapable of acting as a Notary, or was interdicted or removed from office, such Prothonotary shall, within three months after the passing of this Act, transmit all such Notarial Minutes, Repertories and Indexes and other Notarial documents and papers of any such Notary, to the Prothonotary of the Superior Court in the District including the place where such Notary died or resided when he ceased to practise, or practised next before he left the Province or became incapable of acting as a Notary, or was interdicted or removed from office.

Governor may appoint Commissioners in the United Kingdom, to receive affidavits to be used in L. C.

35. It shall be lawful for the Governor from time to time to nominate and appoint fit and proper persons resident in any part of Great Britain or Ireland as Commissioners to administer oaths and take affidavits to be used in any Court of civil jurisdiction in Lower Canada, and all affidavits taken by any such Commissioner shall be of the same value and effect, and the same credence shall be given thereto in all Courts of civil jurisdiction in Lower Canada, as is now given to affidavits taken before a Commissioner appointed by the Superior Court for Lower Canada or by any Judge thereof; Provided that no person but an Attorney or Solicitor practising in one of the Superior Courts of Great Britain or Ireland, and qualified by Law to act as Commissioner for similar purposes in Great Britain and Ireland, shall be appointed.

Proviso: qualification of Commissioner.

Provision for service of subpoenas and other documents in Upper Canada.

36. Whenever any subpoena or other process, opposition, judgment, order, rule, notice or proceedings emanating from the Superior or the Circuit Court, or from any Judge, or incident to any suit or action brought against any person residing in Upper Canada, under the provisions of the fifty-eighth section of *An Act further to amend the Judicature Acts of Lower Canada*, (22 V. (1858) c. 5,) in either of the said Courts, requires to be served upon any party or person residing or being at the time in Upper Canada, it shall be lawful for any Judge of the Superior Court, or for the Prothonotary of the Superior Court or Clerk of the Circuit Court at the place where the action is brought, to sign an order to be indorsed thereon in the following words, "this (*mentioning name of document*) may be served in Upper Canada, and is to be returned into this Court within *days* of service," and may thereby fix the period within which such process shall be returnable; and all the provisions of the said section shall otherwise apply to any such subpoena or other process, opposition, judgment, order, rule, notice or proceedings, in the same manner as they apply to Writs of Summons issued under the authority of that section.

Section 58 of 22 V. c. 5, to apply.

37. The seventeenth and eighteenth sections of this Act shall not come into force until _____, and the yearly contribution required by the second section of this Act from the local municipalities or corporations of the cities of Quebec, Montreal and Three Rivers, and the town of Sherbrooke and the several local municipalities within the district of Quebec, Montreal, Three Rivers and St. Francis respectively, shall not be payable until after that day.

When certain sections of this Act shall come into force.